IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13298 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT SHEEP & WOOL DEVLP CORPORATION LTD - Petitioner(s)

Versus

RAJKOT JILL MAZDOOR SANGH - Respondent(s)

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Appearance :

MR PV HATHI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 19/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioner has challenged the judgment and award dated 25.02.1991 passed by the Presiding Officer, Labour Court, Rajkot in Reference

(LCD) No.48 of 1987, by which the Labour Court has directed the petitioner to prepare seniority list of the shepherds working with the petitioner including the present respondents – workmen and to make six workmen of the reference in question permanent in service according to their seniority. The petitioner was also directed to make other workmen of the reference in question permanent in service as and when the new posts of shepherds are created by the petitioner.

2. This Court (Coram : Y.B.Bhatt,J) had admitted the matter and stayed the impugned order to the extent where the Labour Court has directed grant of permanency to the six workmen and grant of permanency to other workmen as and when new posts are created as back as on 13.09.1995.

3. Having perused the material on record, it appears that though the rule was served, no body appears on behalf of the respondent – workmen.

4. It is submitted by the learned advocate appearing for the petitioner that the resolution dated 17.10.1988 was made applicable to the daily wagers who are working for maintenance and repairs of construction in various departments of the Government and therefore, the same benefits should not be extended to the respondents –

workmen. Mr.Hathi submitted that the issue involved in this petition has been decided by Full Bench of this Court in the case of Gujarat Forest Producers, Gatherers and Forests Workers Union V/s State of Gujarat, reported in 2004(2) GLH 302. In the said decision, this Court has held that the Government Resolution dated 17.10.1988 is applicable to the daily wagers of the Forest and Environment Department engaged in the work of maintenance and repairs of constructions in that department and not to the daily wagers engaged in any other types of work in that department.

5. In the present case, admittedly, the respondents – workmen are working with the petitioner – corporation and the respondents – workmen are not engaged in the work of maintenance and repairs of construction in the petitioner - corporation. Since the Government Resolution dated 17.10.1988 is not applicable to the case of the respondents - workmen, I am of the considered opinion that the Labour Court has committed error in holding that the resolution dated 17.10.1988 is applicable to the case of the respondents – workmen. Even otherwise, the respondents – workmen are daily rated employees and merely because the daily rated employees have put in certain number of years in

service, they are not entitled to the status of temporary or permanent Government servant.

6. Under the circumstances, the petition is allowed. The impugned judgment and award dated 25.02.1991 passed by the Presiding Officer, Labour Court, Rajkot in Reference (LCD) No. 48 of 1987 is required to be quashed and set aside and accordingly the same is quashed and set aside. Rule is made absolute. No costs.

(SHARAD D DAVE, J)

srilatha